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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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PHILIP J. MIRE

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EXAMINER

MOORTHY, ARAVIND K

ART UNIT

PAPER NUMBER

2131

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/312,150	MIRE, PHILIP J.	
	Examiner	Art Unit	
	Aravind K. Moorthy	2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7-12 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7-12 and 18-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to the RCE filed on 14 December 2005.
2. Claims 1, 7-12 and 18-22 are pending in the application.
3. Claims 1, 7-12 and 18-22 have been rejected.
4. Claims 2-6, 13-17 and 23-29 have been cancelled.

Continued Examination Under 37 CFR 1.114

5. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 14 December 2005 has been entered.

Response to Arguments

6. With regards to the claim rejections 35 USC § 112 (1), the examiner withdraws the rejection. The limitation of "a first data packet" is enabled by the specification. The limitation "a second data packet including the encrypted session keys and the encrypted data to another data processing system instead of or in addition to the first data processing system" is enabled by the specification.
7. Applicant's arguments filed 14 December 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so

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long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Cassagnol et al by the teaching of Banker et al because it provides a one-to-one correspondence between the session keys and services. So by having numerous session keys, the system is able to avoid replay attacks.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1, 7, 8, 12, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cassagnol et al U.S. Patent No. 6,438,666 B2 in view of Banker et al U.S. Patent No. 6,005,938.

As to claims 1 and 12, Cassagnol et al discloses a method for encrypting data, the method comprising:

providing a first data processing system [column 4 line 58 to column 5 line 13];

providing a second data processing system including program instructions to generate a session key [column 11, lines 3-8], to encrypt original data using the session key [column 11, lines 3-8], to encrypt the session key with a first user's public key [column 11, lines 3-8], to encrypt the session key with a master public key [column 11, lines 3-8], to generate a first data packet including a session key and encrypted data and to transmit the first data packet to one or more different data processing systems instead of or in addition to the first data processing system [column 11 line 66 to column 12 line 40]; and

the first data processing system receiving the first data packet and including program instructions to decrypt the encrypted session key with a private key of the first user [column 19 line 57 to column 20 line 8], and to decrypt the encrypted data with the session key to recreate the original data [column 19 line 57 to column 20 line 8].

Cassagnol et al teaches that it is one key included in the data packet, not a plurality of session keys.

Banker et al teaches a packet that contains multiple encrypted session keys used for different services [column 14, lines 1-15].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Cassagnol et al so that the data packet that was generated would have included a plurality of encrypted session keys and encrypted data. The generating and transmitting of the data packet would have used the user's public key, the session key, the new session key and the master public key. The first data processing system would have received the packet and decrypted one of the encrypted session keys based on the intended service with the private key of the user.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Cassagnol et al by the teaching of Banker et al because it provides a one-to-one correspondence between the session keys and services. So by having numerous session keys, the system is able to avoid replay attacks [column 2 line 52 to column 3 line 2].

As to claims 7 and 18, Cassagnol et al teaches storing the user's private key on a data storage medium coupled to the destination data processing system [column 19, lines 1-22].

As to claims 8 and 19, Cassagnol et al teaches storing the master private key on a data storage medium coupled to the destination data processing system [column 19, lines 1-22].

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9. Claims 9, 10, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cassagnol et al U.S. Patent No. 6,438,666 B2 and Banker et al U.S. Patent No. 6,005,938 as applied to claims 1 and 12 above, and further in view of Dillaway et al U.S. Patent No. 5,742,756.

As to claims 9 and 20, the Cassagnol-Banker combination does not teach retrieving the user's private key from a smart card utilizing a smart card reader coupled to the destination data processing system.

Dillaway teaches private key stored on a smart card utilizing a smart card reader coupled to the destination data processing system [figure 2].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the Cassagnol-Banker combination so that the user's private key is stored on a smart card coupled to the destination node. The private key is only retrieved when the smart card is inserted into the smart card reader.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the Cassagnol-Banker combination by the teaching of Dillaway because it utilizes a smart card to perform critical cryptography operations. The smart Card can be programmed or otherwise configured to never expose the user's private keys. Rather than providing a private key to the user's computer, the key is held within the smart Card, and required cryptographic operations are performed on the smart Card itself. This makes it impossible for hostile code to obtain the private key [column 3, lines 24-31].

As to claims 10 and 21, the Cassagnol-Banker combination does not teach retrieving the master private key from a smart card utilizing a smart card reader coupled to the destination data processing system.

Dillaway teaches private key stored on a smart card utilizing a smart card reader coupled to the destination data processing system [figure 2].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the Cassagnol-Banker combination so that the master private key is stored on a smart card coupled to the destination node. The master private key is only retrieved when the smart card is inserted into the smart card reader.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the Cassagnol-Banker combination by the teaching of Dillaway because it utilizes a smart card to perform critical cryptography operations. The smart card can be programmed or otherwise configured to never expose the user's private keys. Rather than providing a private key to the user's computer, the key is held within the smart card, and required cryptographic operations are performed on the smart card itself. This makes it impossible for hostile code to obtain the private key [column 3, lines 24-31].

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10. Claims 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cassagnol et al U.S. Patent No. 6,438,666 B2 and Lohstroh et al U.S. Patent No. 5,768,373 as applied to claims 1 and 12 above, and further in view of Kruys U.S. Patent No. 5,555,309.

As to claims 11, 22 and 29, the Cassagnol-Banker combination does not teach utilizing a plurality of public master keys and a plurality of private master keys to decrypt the encrypted session key.

Kruys teaches a plurality of master keys [column 2, lines 56-67].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the Cassagnol-Banker combination so that there would have been a plurality of public and private master keys to decrypt the encrypted session keys. There would have been multiple session keys so there would have been a public/private master key set to encrypt and decrypt the session keys.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the Cassagnol-Banker combination by the teaching of Kruys because it utilizes master keys, each one of which is unique to a respective domain member, and is arranged to protect the respective member vector key of each domain member [column 3, lines 55-62].

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Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aravind K. Moorthy whose telephone number is 571-272-3793. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aravind K Moorthy *AM*
January 9, 2006

AM
Primary Examiner
AU 2131
11.3.06